IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.702 OF 1999

IN

NOTICE OF MOTION NO.1463 OF 1995

IN

SUIT NO.1344 OF 1995

AND

APPEAL NO.1194 OF 1998

IN

NOTICE OF MOTION NO.3480 OF 1997

IN

SUIT NO.1344 OF 1995

1.The Municipal Corporation of
Gr.Mumbai & others. ...Appellants.

vs.

1.M/s.Landed Estates Ltd. ...Respondent.

Mr.A.Y.Sakhare with Mr.K.N.Gaikwad,for Appellants.

Mr.D.H.Mehta i/b. M/s.Dhru & co., for Respondent.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 18th July,2007.

P.C.:-

1. Both the appeals can be conveniently disposed of by common order.

2. Because of non payment of property tax the property of the respondent M/s.Landed Estates Ltd. was being sold by the Corporation, therefore, a civil suit no.1344 of 1995 was filed in this Court. In that suit, a notice of motion was taken out restraining the Corporation from proceeding further with the sale of the property. On that notice of motion an order was made by the learned Single Judge granting

temporary injunction in favour of the plaintiff subject to certain conditions which related to the payment of the amount. Then a notice of motion was taken out by the Corporation for setting aside that order on the ground that the order was made without hearing the Corporation. That notice of motion was also disposed of. These two appeals have been filed by the Corporation one challenging the original order passed in the notice of motion granting temporary injunction and another against the order declining to review or cancel that order. Because of the interim order made in this appeal and the interim order made by the Supreme Court, it is common ground that substantial amounts have been paid by the original plaintiff to the Corporation. A proposal for settlement of dispute in relation to the penalty amount is admittedly pending before the Corporation.

3. In our opinion, in view of the fact that

substantial amounts have been paid by the plaintiff and that the proposal for settlement of penalty amount is pending and that the interim orders are operating for such a long time, it will not be appropriate at this stage to disturb the order of the temporary injunction passed by the learned Single Judge. The appeals are therefore, disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA,J.)